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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twentieth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 8) (continued)

Preliminary examination of draft concluding observations concerning the Solomon Islands (E/C.12/1/Add.33)

1. The CHAIRPERSON, announcing that the Solomon Islands had not submitted a single report since it had ratified the Covenant in 1982, said that the Committee had to review that country's situation in the absence of a delegation from the State party. She invited Mr. Riedel, Country Rapporteur, to present the Committee's draft concluding observations on the implementation of the Covenant in the Solomon Islands and requested the Committee members to offer their preliminary comments on that text and the situation in that country.

2. Mr. RIEDEL (Country Rapporteur) recalled that, at the Committee's nineteenth session, he had been instructed to draft a report on the application of the provisions of the Covenant in the Solomon Islands for the twentieth session, on the basis of any available information. He explained that his findings rested mainly on a document entitled "Moving Forward and Maintaining the Past: The Status of Social and Economic Rights in the Solomon Islands", which had been prepared for the Committee by a non-governmental organization (NGO), the Centre on Housing Rights and Evictions (COHRE), in the wake of a fact-finding mission to the Solomon Islands in January 1999 which had been headed by Mr. Scott Leckie.

3. Briefly introducing the text of the draft concluding observations on the Solomon Islands (E/C.12/1/Add.33), he stated that the Committee had to remember that the Solomon Islands was one of the least developed countries in the Western Pacific and that per capita income (less than $US 300 per annum) was one of the lowest in the world. Poverty was widespread but worst in rural areas, where approximately 80 per cent of the population lived. The country's economy, which relied essentially on the export of primary commodities such as cocoa, copra, timber and palm oil, was being badly hit by the slump in its traditional export markets, and that in turn was having a serious impact on government revenue.

4. He first outlined the positive aspects of the situation in the Solomon Islands. The Committee should welcome the measures being taken by the newly elected Government to revive economic growth through a structural adjustment programme and should hence invite it to draw on international expertise when it came to apply those sections of the programme concerned with forestry. In addition, the Committee should note with satisfaction that, in accordance with article 8 of the Covenant, section 13 of the Constitution guaranteed the right of workers to form or belong to trade unions, that the courts had recognized that right in practice and that 60 to 70 per cent of workers were organized in unions.

5. As to the implementation of article 10 of the Covenant, the Committee should also record that the Constitution banned forced labour, including child labour. Furthermore, various laws prohibited the employment of children under the age of 12 in arduous work, those under the age of 15 in work in industry or on ships and those under the age of 18 in work underground or in mines.

6. With regard to the implementation of article 12 of the Covenant, the Committee should note that the Government gave high priority to health, to which a sizeable percentage of the national budget was allocated. It cooperated actively with specialized agencies, and particularly with the World Health Organization in order to combat various communicable diseases and malaria. It had introduced the national immunization programme which had been a major contributory factor to the rise of inhabitants' average life expectancy to over 70.

7. With respect to article 15 of the Covenant, the Committee should take note of the fact that the population's kastom and wantok culture, which had been widely preserved, made for particularly close bonds of solidarity which had helped the population to cope with the economic crisis and recent natural disasters. It should further welcome the decision taken by the Solomon Islands, notwithstanding its economic tribulations, to organize regular Melanesian Arts and Cultural Festivals with the five other Melanesian States.

8. Turning to the negative aspects of the implementation of the Covenant, he said that the Committee ought to observe among the principal subjects of concern related to articles 3 and 4 of the Covenant, that women accounted for less than 20 per cent of public-sector employees and only 40 per cent were engaged in a professional or technical occupation despite the action of the Women's Development Division and a constitutional anti-discrimination clause. It had to be pointed out that women did not exercise any major decision-taking functions within the Government and that only one Member of Parliament was female.

9. As for articles 6 and 7 of the Covenant, the Committee should note with concern the rise in unemployment, which had fuelled tension between the disaffected jobless from the province of Guadalcanal, who had formed a "Guadalcanal Liberation Army", and the inhabitants of the Malaïta province who constituted the dominant social group. It was also necessary to draw attention to the fact that unemployment figures did not include either part-time work or subsistence farming and that the disabled had few job opportunities.

10. It should be noted that the hourly minimum wage which, according to the United States State Department, was set at $US 1.50 was not sufficient to support an urban family without additional earnings from subsistence activities, and that there were huge disparities between the incomes of the inhabitants of rural areas and those of towns.

11. As far as article 10 of the Covenant was concerned, it should be pointed out that although acts of domestic violence were very frequent, they were not treated seriously by the police and that the courts did not systematically penalize physical violence against women.

12. In respect of article 11 of the Covenant, the Committee should express concern about the Government's plans to privatize the housing sector when, on the contrary, it should be endeavouring to provide housing for the increasing numbers of homeless persons. Furthermore, the Government's attention should be drawn to the fact that deforestation and overfishing, which damaged the natural environment, might violate the "right of everyone to an adequate standard of living for himself and his family", as set forth in article 11 of the Covenant.

13. In connection with article 12 on the right to health, it should be pointed out that the infant mortality rate - 26.8 per 1,000 live births - was still high, as was the maternal mortality rate. Only 9 per cent of the population were supplied with sanitation services, and 63 per cent had no reasonable access to drinking water.

14. With regard to the right to education embodied in article 13 of the Covenant, he expressed regret at the absence of free, compulsory primary-school education and the fact that only 60 per cent of school-age children attended primary school and 50 per cent of young people were receiving secondary education. As a result, it was estimated that a mere 23 per cent of adults were literate and that 83 per cent of women were illiterate.

15. In its recommendations and suggestions, the Committee should again draw the attention of the Government of the Solomon Islands to its obligation regularly to present periodic reports, so as to enable the Committee to give adequate consideration to the application of the provisions of the Covenant in the territory of the State party. As things stood, the Committee should merely urge the Government of the Solomon Islands to avail itself of the advisory services of the Office of the United Nations High Commissioner for Human Rights and also to turn to the specialized agencies represented in its territory, with a view to preparing, for examination by the Committee, a comprehensive report on the implementation of the Covenant, which would focus on the above-mentioned issues and concerns.

16. Mr. TEXIER said that the situation of the Solomon Islands was a typical instance of a Government ratifying the Covenant without grasping the resultant obligations. The main task ahead for the Committee was to institute a dialogue with that State party in the knowledge, on the one hand, that most of the obligations flowing from the Convention were not respected in its territory, chiefly because of widespread poverty and local traditions and, on the other, that the Government had very few resources at its disposal. In the case in question, written recommendations would not suffice. It would be far more useful for the Committee to send a mission to the Solomon Islands to explain in person to the Government the nature of its obligations under the Covenant and to spell out the practical steps which needed to be taken in order to present periodic reports to the Committee, with the assistance of the Office of the United Nations High Commissioner for Human Rights and the specialized agencies of the United Nations.

17. Mr. ANTANOVICH said that the unprecedented situation which had arisen in the Solomon Islands with regard to the procedure for monitoring the application of the Covenant's provisions represented a real challenge to the

Committee. Like Mr. Texier, he thought that, because of various economic and social factors in that country, the Committee's recommendations alone would be ineffective, unless they were supplemented by practical measures, such as sending a mission to the country to help the Government take steps to draft and submit its next periodic report.

18. Mr. SADI endorsed the previous speakers' comments. He thought that the example of the Solomon Islands raised the question of what attitude the Committee should adopt in general in such circumstances with regard to particularly impoverished States parties with an undeveloped society and economy. Was it fair to subject them to an examination procedure as draconian as that applied to infinitely more developed countries? Moreover, in his opinion, the Committee's recommendations ought to focus on essential questions related to the application of the Covenant and refrain from mentioning other less important points, such as the representation of women in decision-making posts.

19. Mr. WIMER said that the Solomon Islands clearly constituted an atypical case which had to be studied in the light of very special parameters. Having said that, he congratulated the authors of the COHRE report and requested further details about the land ownership system in the Solomon Islands. What did privatization mean in a society whose structures were still tribal? Furthermore, the level of urbanization seemed to be so low that it was hard to distinguish between urban centres and rural areas. What were the exact facts?

20. Mr. CEAUSU said that it was impossible not to be struck by the extreme poverty of a country, which nevertheless possessed vast resources - especially fish stocks, thanks to its territorial waters which covered 1.3 million sq. km. There were both historical and economic reasons for that situation. The Solomon Islands had been given independence by the United Kingdom in 1978 after what appeared to have been a botched decolonization process. Unfortunately, the country had been abandoned to its fate and nothing had been done to prevent foreign companies from plundering its resources. In those circumstances, it was up to the Economic and Social Council of the United Nations to send a mission to the country to evaluate needs, so as to draw up a special technical assistance plan to help the Solomon Islands conserve and exploit its natural wealth in the interest of the population.

21. As far as the implementation of economic and social rights in the Solomon Islands were concerned, the Committee ought to request the secretariat to write to the Government of the Solomon Islands in order to obtain up-to-date documentation (development plans, budget, etc.) statistics and data. The Committee would then be able to draft its conclusions and recommendations without having to depend on an NGO's report, however good it might be.

22. Mr. AHMED stated that the heavily indebted Solomon Islands had agreed on a repayment programme, accompanied by very strict terms, with the World Bank, the International Monetary Fund (IMF) and the Asian Development Bank (ADB). The Committee could therefore make what recommendations it liked, but the Government could not depart from the conditions imposed by those financial institutions. Having said that, it was well known that the country's difficulties fell under four main headings: food, housing, education and

health. For that reason, the Committee should draw up a programme together with indicators and benchmarks, so as to measure progress in those four main areas. That programme, to which the survey conducted by COHRE would be appended, would then be sent to the Economic and Social Council, the Office of the High Commissioner for Human Rights and other United Nations bodies.

23. Ms. JIMENEZ BUTRAGUEÑO said that violence against women, which was still a considerable problem everywhere, ought to be added to the four priorities listed by Mr. Ahmed.

24. Mr. THAPALIA proposed that technical assistance should be given to the Solomon Islands in order to help the country to discharge its obligations under the Covenant, especially that of presenting periodic reports to the Committee.

25. Mr. SADI, coming back to the Solomon Islands' agreement with the IMF, as mentioned by Mr. Ahmed, considered that the Committee's terms of reference authorized it to make a critical analysis of such programmes in order to identify any points which might conflict with the provisions of the Covenant.

26. Mr. HUNT pointed out that few South Pacific countries had ratified the Covenant. One of the reasons was that the societies of those countries attached great importance to life within a group and were very wary of a Covenant which, in their opinion, reflected an excessively individualistic concept of life. The Committee should therefore realize that if a constructive approach were to be adopted towards the Solomon Islands, it would encourage the other countries of the region to look more favourably upon the Covenant.

27. He drew the Committee's attention to the exceptional nature of the land ownership system in the Solomon Islands, where private property was unknown, since 90 per cent of land belonged to the community. The Government had recently been under foreign pressure to embark upon a reform which might have a devastating effect on the society and culture of the Solomon Islands. That was particularly worrying because in the other countries where such reforms had been undertaken, it was found that only the elite had benefited from them, while the majority of the population had become completely destitute and marginalized. The history of the South Pacific countries abounded with examples which prompted justified concern about that prospect.

28. It was clear that the Committee needed more information and data about the implementation of economic, social and cultural rights in the Solomon Islands. He therefore proposed that the Committee should devote one or two meetings to that question at its twenty-first session in November/December 1999. The specialized agencies would be officially invited to attend and to convey all the information in their possession about the country. They could also be asked to make suggestions as to how the Committee and the State party could maintain relations more in keeping with the provisions of the Covenant. In response to Mr. Sadi's concern, the World Bank would be included among the agencies invited. Of course, a representative of the Government of the Solomon Islands ought to be present, and the main neighbouring countries, such as Australia and New Zealand, which had a special relationship with the Solomon Islands, would likewise be invited.

29. Mr. PILLAY considered it wise to invite the World Bank, especially as that institution had started to include social policies in its programmes of aid to poor countries. That approach was in line with the Committee's recommendation that international human rights instruments should be borne in mind when structural adjustment programmes were drawn up. As far as the COHRE document was concerned, it would only be fair to forward a copy of it to the Government of the Solomon Islands, so as to enable it to submit its comments before the next session of the Committee.

30. Mr. RIEDEL (Country Rapporteur) thought that Mr. Hunt's proposal to invite the World Bank and the IMF was excellent, since both institutions had a major influence on the social and economic development policies applied by the Solomon Islands. In the meantime, the Committee ought to draft its concluding observations and send them, together with the COHRE document, to the Government of the Solomon Islands for possible comment. It should be impressed on the Government that even if it did not react, the Committee intended to continue its consideration of the situation regarding economic, social and cultural rights in the Solomon Islands. Admittedly, in the past, the Committee had experienced great difficulty in eliciting any reaction from the Government of the Solomon Islands, but it was not the time to be disheartened. In that connection, the fact of devoting a special meeting to a country which had not submitted a report would doubtless prove to be a judicious precedent.

31. Mr. SADI expressed the opinion that it was too early to adopt concluding observations. Would it not be preferable to go no further than preliminary observations until more data had been received?

32. Mr. AHMED and Mr. TEXIER said that the Committee ought first to express a position, before pursuing its consideration of the situation of economic, social and cultural rights in the Solomon Islands with the assistance of specialized agencies. At the same time, the Chairperson should endeavour to obtain a response from the Government before the next session.

33. Mr. LECKIE (Centre on Housing Rights and Evictions) said that the issue of a minimum wage was less relevant in the Solomon Islands than in other countries owing to the fact that nine tenths of the population worked in the subsistence economy. A much more pressing concern was the Government's plan to downsize the public sector, which might lead to the loss of 550 jobs, i.e. one third of the country's paid jobs, although no redeployment or retraining programme had been introduced. The question of land, especially in the context of privatization, was indeed crucial, as Mr. Wimer had pointed out. The collective ownership of land was a constant of social and economic relations in the Solomon Islands and the crux of the matter was therefore how to institute land ownership rules which protected the property rights of communities and preserved the customary law system.

34. With regard to the status of the International Covenant on Economic, Social and Cultural Rights in the Solomon Islands, he explained that a few years earlier, the Foreign Ministry of the Solomon Islands had had to part with its specialist on international legal issues owing to a shortage of financial resources. In that connection, the Committee could propose that one of the donor countries of the region should provide the Government of the

Solomon Islands with the funds needed to pay the salary of a specialist in international law, for a few years at least. In conclusion, COHRE called upon the Committee to adopt a conciliatory attitude to the Solomon Islands in view of the new Government's obvious goodwill. The Centre once again urged the Committee to visit the Solomon Islands as part of a technical cooperation programme which could also involve staff of the Office of the High Commissioner for Human Rights or specialists on the Pacific region. During that mission, the Committee could emphasize to the Government of the Solomon Islands the need to hold an international conference on the International Covenant on Economic, Social and Cultural Rights, to be attended by all the parties concerned (government officials, trade unions, NGOs, bilateral donors represented in the country and agencies of the United Nations carrying out programmes in the Solomon Islands). The purpose of that conference, which would last for several days, would be not only to publicize the Covenant and the Government's determination to apply it, but also to work out an overall concerted plan of action which would make it possible to amend legislation and policies in the light of that goal. The plan of action would be implemented over a two-year follow-up period. He believed that the implementation of the Covenant offered a unique opportunity to initiate a cooperation process in which the Committee would provide the momentum by encouraging United Nations agencies and donors to centre their development programmes and modalities on economic, social and cultural rights.

35. The CHAIRPERSON, summing up the discussion, said that a consensus seemed to be emerging on two points. First, rather than issuing concluding observations, the Committee ought to formulate some comments on the situation in the Solomon Islands on the basis of the information at its disposal, in other words COHRE's report. Secondly, at its twenty-first session, it could institute a dialogue with the specialized agencies of the United Nations and, possibly, some representatives of States parties and major States in the region, with a view to garnering more information on how to help the Solomon Islands to discharge its obligations under the Covenant, organizing an information and education campaign on the Covenant in the Solomon Islands and devising a medium-term action plan to foster economic, social and cultural rights in the region. The aim would be not only to assist the Solomon Islands but also, above all, to send States in the region a clear signal that they should accede to the Covenant and impress on them that such action would not jeopardize their traditions and customs but, on the contrary, that the values implicit in human rights might help them to preserve their way of life. She invited the Committee members to consider those two specific proposals.

36. Mr. SADI suggested that the Committee should specify immediately which specialized agencies would participate in that conference.

37. The CHAIRPERSON said that the Committee could invite FAO, ILO, IMF, the World Bank, UNDP and even UNESCO. The reason why the Committee should not adopt concluding observations was that its intention was not to reach conclusions, but rather to embark on a dialogue which might subsequently serve as a model. If the term "comments" bothered some members, it could perhaps be replaced with "preliminary observations", for example.

38. Mr. RIEDEL pointed out, in response to the reservations expressed by Mr. Tikhonov about using the word "comments", that the Committee was faced with a special case, because the State in question had not submitted a report. As far as wording was concerned, the Committee ought to strike a balance between demonstrating a degree of firmness and indicating a readiness to engage in a constructive dialogue.

39. Mr. TIKHONOV (Secretary of the Committee) pointed out that the reason for the Committee's decision to consider the Covenant's implementation in States which had not presented a report was precisely to encourage those States to report to the Committee. To that end, a three-stage procedure had been introduced, which consisted in deciding to give consideration to the implementation of the Covenant in a given State, informing the Government of that State of the decision in a note verbale and then inviting that Government to present a report within a specified deadline, it being understood that, once that deadline had passed, the Committee could consider the situation on the basis of all available information. Another method used by the secretariat to induce States to present a report was to send a note verbale every year to all the States whose reports were still pending. That arrangement had sometimes produced excellent results. For example, in the past, the Permanent Representative of a State finding itself in that position had requested the Committee not to consider the situation of his country until a report had been drafted. A meeting on the granting of technical assistance to help that country to draw up its report had then been organized with the collaboration of the Office of the High Commissioner for Human Rights and the Committee had received a report from that State some six months later. If the Committee received no response from the State concerned, it was entitled to consider the situation of that country on the basis of all the available information and to formulate concluding observations which were sent to the country concerned. He asked why the Committee should give the Solomon Islands different treatment, pointing out that the Committee did not adopt concluding observations in order to wind up its examination, but in order to try once more to establish a dialogue with the State party concerned. In his opinion, it would not be wise to speak of "preliminary concluding observations", as that term was applied to the specific case in which a representative of the State party appeared before the Committee, which then adopted preliminary concluding observations subject to the Government's pledge that it would supply certain items of information and that the implementation of the Covenant would be examined at the following session.

40. Mr. TEXIER said that the Committee had always displayed flexibility and practicality and that, in the case in point, content was more important than wording. The document containing the observations ought to express the Committee's grave concern, as well as its readiness to cooperate and monitor the situation. In that respect, the Committee should clearly explain to the specialized agencies concerned, in the letter of invitation it was to send them, that its intention was to institute cooperation with the Solomon Islands in a new spirit of mutual assistance and cooperation.

41. The CHAIRPERSON announced that the Committee had completed its preliminary examination of the situation regarding the Solomon Islands on the basis of COHRE's report and the text of the concluding observations in question (E/C.12/1/Add.33).

FOLLOW-UP TO THE CONSIDERATION OF REPORTS UNDER ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (E/C.12/1999/3)

42. Mr. RIEDEL reported on the debate which had taken place on 4 March 1999 in the German Parliament on the Committee's concluding observations (E/1999/22-E/C.12/1998/26) relating to Germany's third periodic report (E/1994/104/Add.14). Some Members of Parliament had welcomed the fact that the Committee had drawn attention to the question of the poverty threshold, the status of asylum seekers, unemployment in East Germany and the situation of officials of the former German Democratic Republic (GDR).

43. Several criticisms had, however, been voiced. It had been remarked that some conclusions had been based on incorrect information. For example, it was not true that only 12 per cent of public servants who had previously worked in the scientific and technical sectors of the former GDR had been re-employed, since out of the 40,500 officials concerned, only 1,400 had not been taken on again. Of them, 1,300 were teachers, of whom only 120 had been dismissed, and they had received compensation. Similarly, out of the 22,500 criminal cases brought against officials on political grounds, only 211 had run their full course and had generally resulted in suspended prison sentences. According to some Members of Parliament, the Committee ought to have paid greater heed to the information it had received, especially the ILO's opinion on child labour in Germany. Nevertheless, the Committee's use of recognized NGOs as a source of information had been welcomed. Other Members of Parliament had considered that the Committee had placed too much emphasis on sexual violence and the trafficking in women.

44. Most Members of Parliament had been surprised by the severity of the Committee's criticisms, especially as the delegation had had the impression that it had held a friendly and constructive dialogue with the Committee. The Committee had also been taken to task for criticizing the ban on the right to strike in the civil service, when the Covenant itself provided for restrictions on that right. All in all, the general feeling of the Members of Parliament had been that the Committee's concluding observations had not been fair.

45. He inferred that the Committee should take care not to give a delegation the wrong impression after the debate on its periodic report and ought to be ready to admit that the figures it had used were incorrect, if that were the case.

46. Mr. WIMER, supported by Ms. JIMENEZ BUTRAGUEÑO, said that the Committee should take more care with the accuracy of its concluding observations and ensure that there was no discrepancy between the tone of the latter and that of the dialogue with the delegation.

47. Mr. SADI, supported by Mr. ANTANOVICH, thought that it was interesting to have feedback on the Committee's observations and asked if there was an official procedure for conveying information about the reaction of States parties.

48. The CHAIRPERSON replied that no machinery of that kind existed, but NGOs or States parties did sometimes announce their reactions or objections. The information about follow-up to the consideration of reports was contained in document E/C.12/1999/3.

49. Mr. CEAU'SU proposed that an additional point should be added to the concluding observations in which the Committee would request the State party to inform it of any reactions or comments from its authorities.

50. Mr. TEXIER, supported by Ms. JIMENEZ BUTRAGUEÑO, Mr. KOUZNETSOV and Mr. RIEDEL, said they found that to be a constructive proposal.

51. The CHAIRPERSON, supported by Mr. KOUZNETSOV, suggested that Mr. Ceausu's proposal should be tried out during the session in progress.

52. Mr. ANTANOVICH said he was in favour of Mr. Ceausu's idea, provided that the Committee did not abandon its objectiveness.

53. Mr. PILLAY thought that great caution was required and that States parties should not be invited as a matter of course to pass on their comments. They could always convey their reaction if they so wished.

54. Mr. WIMER said he was not opposed to Mr. Ceausu's proposal. Nevertheless, in his opinion, the State party should be offered the opportunity to reply, but not placed under an obligation to do so.

The meeting rose at 12.55 p.m.